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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,395	10/25/2001	Keiichi Kawata	011424	9955

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EXAMINER

RHEE, JANE J

ART UNIT PAPER NUMBER

1772

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/926,395	KAWATA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jane Rhee	1772	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Rejections Withdrawn***

1. The 35 U.S.C. 102 (e) rejection of claims 1,5-9,11 anticipated by Itoh et al. has been withdrawn due to applicant's amendment in paper 6/23/2004.
2. The 35 U.S.C. 103(a) rejection of claim 2 over Itoh et al. in view of Kakugo et al. has been withdrawn due to applicant's amendment in paper 6/23/2004.
3. The 35 U.S.C. 103(a) rejection of claims 3-4,10 over Itoh et al. in view of Hirose et al. has been withdrawn due to applicant's amendment in paper 6/23/2004.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

### ***New Rejections***

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamaoka et al. (JP 09104767, English translation).

Yamaoka et al. discloses a laminate of a multi-layer structure, comprising at least one alicyclic polymer layer (page 2 line 2), one thermoplastic resin layer (page 2 line 3) which comprises thermoplastic resin other than those used in the polymer layer (A) and at least one layer of resin composition comprising an alicyclic polymer and a thermoplastic resin (page 2 line 4-5), wherein the laminate contains at least one layer structure of (A)/(C)/(B) (page 4 line 33).

Yamaoka et al. discloses that the multilayer structure is composed of thermoplastic resin layer (B), resin composition layer (C), alicyclic polymer layer (A) (page 6 line 15). Yamaoka et al. discloses that the total ratio of the alicyclic polymer layer to the thermoplastic resin layer is 1:99 to 70:30 (page 2 line 10).

Yamaoka et al. discloses that the thickness proportion of the resin composition layer is 50-95% based on the total thickness of alicyclic polymer layer and the thermoplastic resin layer (page 4 line 5) which is in applicant's claimed range of 5-100% based on the total thickness of the alicyclic polymer layer and the thermoplastic resin layer. Yamaoka et al. discloses that the thickness of the alicyclic polymer is 200 to 1000  $\mu\text{m}$  (page 4 line 5) which is in applicant's claimed range of 0.1 to 180 $\mu\text{m}$ , the thickness of the thermoplastic resin layer is 40 $\mu\text{m}$  (page 6 line 13) which is in applicant's claimed range of 0.2 to 250 $\mu\text{m}$ , and the thickness of the resin composition layer is 10 $\mu\text{m}$  (page 6 line 13) which is in applicant's claimed range of 0.07 to 75 $\mu\text{m}$ . Yamaoka et al. discloses that the thickness of the laminate is 100 to 1000 $\mu\text{m}$  (page 4 line 11) which is in applicant's claimed range of 0.5 $\mu\text{m}$  to 5mm. Yamaoka et al. discloses that laminate is formed in the form of a film (page 4 line 44).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaoka et al. in view of Kakugo et al. (5141994).

Yamaoka et al. discloses the laminate described above. Yamaoka teaches that the resin composition layer is a linear low density polyolefin (page 3 line 34-35). Yamaoka et al. fail to disclose that the resin composition layer C is a linear low density polyolefin having a long period of at most 275 angstroms as measured by the small angle X-ray scattering method. Kakugo et al. teaches a linear low density polyolefin having a long period of less than 186 angstroms as measured by the small angle X-ray scattering method (col. 14 line 40) for the purpose of providing relatively excellent rigidity, heat resistance and surface hardness (col. 1 lines 14-16).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Yamaoka et al. with a linear low density polyolefin having a long period of at most 275 angstroms as measured by the small angle X-ray scattering method in order to provide a

relatively excellent rigidity, heat resistance and surface hardness (col. 1 lines 14-16).

7. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaoka et al. in view of Hirose et al. (6165573).

Yamaoka et al. discloses the laminate described above. Yamaoka et al. fail to disclose that the alicyclic polymer forming alicyclic polymer layer A is a norbornene polymer wherein the norbornene polymer is a hydrogenated product of a ring-opening polymer of a norbornene monomer. Hirose et al. teaches that the alicyclic polymer forming the alicyclic polymer layer is a norbornene polymer (col. 28 lines 20-24) wherein that the norbornene polymer is a hydrogenated product of a ring-opening polymer of a norbornene monomer (col. 28 lines 30) for the purpose of providing excellent interlaminar bond properties, formability, moisture resistance, transparency, moderate flexibility, tearability, heat sealing properties and dead fold properties but also in vacuum or pressure formability (col. 33 lines 27-34).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Yamaoka et al. with the alicyclic polymer forming the alicyclic polymer layer that is a norbornene polymer wherein that the norbornene polymer is a hydrogenated product of a ring-opening polymer of a norbornene monomer in order to provide excellent interlaminar bond properties, formability, moisture resistance, transparency, moderate flexibility, tearability, heat sealing properties and dead fold properties but also in vacuum or pressure formability (col. 33 lines 27-34) as taught by Hirose et al.

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8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamaoka et al. in view of Genske et al. (4778697).

Yamaoka et al. discloses the laminate described above. Yamaoka et al. discloses that the laminate can produce a tube like film. Yamaoka et al. fail to disclose that the laminate is formed in the form of a container. Genske et al. teaches a tube like film being formed into a container (col. 5 lines 6-22) for the purpose of housing a product (col. 5 line 17-18).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Yamaoka et al. with the laminate that is formed into a container in order to house a product (col. 5 line 17-18).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jane Rhee  
September 17, 2004

  
NASSER AHMAD  
PRIMARY EXAMINER 9/19/04